



## SENTENCING IN WISCONSIN

### *Snapshots of Information on Wisconsin Sentencing*

April 7, 2006

Vol. 3, No. 4

## **New Study on Recidivism, Robbers, and Sentencing in Wisconsin**

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### **Why Study Recidivism?**

Recidivism, as defined by the *Merriam-Webster Online Dictionary*, is “a tendency to relapse into a previous condition or mode of behavior; *especially*, relapse into criminal behavior.” In large part, the purpose of studying recidivism is to gain an understanding of why criminal offenders recidivate, and ultimately, attempt to identify ways to prevent the relapses of criminal behavior. The time of sentencing in the trial courts is one point at which intervening in an offender's cycle of recidivism is possible. By understanding repeat offenders and their traits more thoroughly, sentences could potentially be crafted to diminish re-offending more effectively.

The process of criminal sentencing in Wisconsin is built on a solid foundation of judicial discretion. In a discretionary sentencing system, judges' access to comprehensive information at the time of sentencing is essential to the development of individualized sentences that are fair and effective. The Wisconsin Supreme Court recognized this fact in State v. Gallion, 2004 WI 42, 270 Wis. 2d 535, 678 N.W.2d 197 (2004). The justices opined, “[n]ow judges have an enhanced need for more complete information upfront, at the time of sentencing. Judges would be assisted in knowing about a defendant's propensity for causing harm . . .” The justices continued, “[i]nformation compiled by a sentencing commission will also be helpful in providing comparative data . . .” Gallion, 270 Wis. 2d at 555.

Studying the traits of repeat offenders and their offenses is consistent with the legislative directive to the Wisconsin Sentencing Commission (WSC). Section 973.30(j) Wis Stats. directs the WSC to “Study how sentencing options affect various types of offenders and offenses.” Researching how sentencing options affect recidivists then, is directly in

keeping with WSC's legislative charge. Researching recidivism is also in keeping with the Governor's charge to the WSC. In late 2003, the Governor directed the WSC to study the “effectiveness of sentencing practices.” Analyzing recidivists and the sentences they receive is a sound way of accomplishing this directive.

In addition to the above mentioned formal reasons for studying recidivism, the WSC regularly receives informal requests directly from judges who are seeking facts about sentence effectiveness in order to better inform their sentencing decisions.

### **The Study**

In response to these legal and practical reasons, the WSC has posted on its website a recently completed study of recidivism in Wisconsin. This report presents a variety of trends, traits and observations about general recidivists and robbery recidivists who were sentenced to the Wisconsin Department of Corrections (DOC) on multiple occasions from 1980 through 2003.

There were three main objectives of the study. First, to help criminal justice practitioners better understand the traits associated with specific groups of repeat offenders, in this case, robbers. Second, to raise awareness of the significance of those traits when sentencing or making policy. Finally, to attempt to identify what an effective sentence is to prevent offenders (robbers) from re-offending.

Throughout this report, findings from various national and international studies are presented along with newly generated Wisconsin statistics. This report, “Three Critical Elements Reduce Recidivism,” consists of four sections:

## Trends, Traits, and Observations of All Offenders

Section one of this report presents summary information on all offenders sentenced to DOC regardless of the offense category. Statistics for Wisconsin offenders are presented along with observations from previous studies. The main topics presented in this section include:

- Trends of all offenders
- Traits of Wisconsin offenders including criminal history, age, gender, and race.
- Traits from previous studies covering general traits and psychological traits.
- Observations from previous studies covering the topics of punishment, deterrence, rehabilitation, prevention, and prediction.

## Trends, Traits, and Observations of Robbery Offenders

Section two of this report identifies characteristics specific to repeat robbery offenders. This robbery section includes topics such as:

- Trends of robbery offenders with particular attention paid to recidivistic robbers.
- Traits of Wisconsin robbers including criminal history, age, gender, race, and progression of criminality.
- Traits of robbery offenders from previous studies including reasons for robbing and psychological traits.
- Observations from previous studies including: progression of criminality, punishment, and prevention.

## Study of Wisconsin Robbery Sentences

Section three examines the sentences received by Wisconsin robbery offenders. The primary focus of this portion of the study is on data collected from the Wisconsin Sentencing Guidelines Worksheets. The objective of this section was to determine what impact selecting various worksheet factors had on a robbery offender's prison sentence length. This section includes:

- An overview of robbery sentences in Wisconsin consisting of what percentage of robbery offenders received prison versus probation, along with the length of robbery sentences.
- A description of the Sentencing Guidelines Worksheets.
- A worksheet analysis including the types of sentences received by robbery offenders from the worksheets, frequently checked worksheet factors, the length of sentences for the worksheet group in general, and the effect of specific worksheet factors on sentence length.
- An attempt to determine if observations about likelihood to recidivate can be determined from reviewing the factors selected by judges on the worksheets.
- Attempts to determine if the sentences imposed on this group of robbers were effective.

## Is There an Effective Sentence to Prevent Re-Offending

In the final section of this report, a comprehensive sentencing model is introduced that discusses three elements that are critical to reducing recidivism. Each of the three elements is discussed in detail followed by a discussion of why all three elements are required to develop sentences that reduce recidivism.

## Recommendations

The report concludes by presenting a set of seven recommendations. The findings from the four sections along with the recommendations are presented as a way to get criminal justice practitioners and policy makers thinking about potential ways in which victimization and the expense created by repeat offenders might be moderated in the future.

This report is also offered as a possible model for the continued study of recidivism, emphasizing the study of additional specific offense groups beyond robbers.

*For other publications, or more information about the Commission, see its website, <http://wsc.wi.gov>*